
(2005) 09 AHC CK 0236

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 12727 of 2005

Vijay Sahagal

APPELLANT

Vs

State of U.P. and Gulab Singh "Sub-Inspector"

RESPONDENT

Date of Decision : 12-09-2005

Acts Referred:

Penal Code, 1860 (IPC) — Section 466, 473, 489B, 489C

Citation : (2005) 09 AHC CK 0236

Hon'ble Judges : Poonam Srivastava, J

Bench : Single Bench

Advocate : K.M. Mishra, for the Appellant; A.G.A., for the Respondent

Final Decision : Allowed

Judgement

Poonam Srivastava, J.—Heard learned counsel for the applicant and learned A.G.A for the State,

2. This application has been filed for quashing the entire proceedings of Session Trial No 274-B of 2001, pending in the court of Additional Session Judge/ Fast Track Court No. 28, Etawah, State v. Vijai Sahagal, under Sections 466, 473, 489B and 489C I.P.C. Police Station Bakewar, District Etawah.

3. The first information report has been annexed as Annexure-I to the affidavit. There are four accused named in the first information report including the present applicant. The allegations against all the accused are identical in the first information report. The accused Sunil Singh and Dilip Singh mentioned as accused nos. 3 and 4 in the first information report were tried separately vide Session Trial No. 274 of 2001, arising out of case crime No. 97 of 2001. Both the accused have been granted a clear acquittal by the Additional District and Session Judge. Fast Track Court No. 28, Etawah vide judgment dated 19.2.2005. A copy of the judgment has been annexed as Annexure-3 to the affidavit. On perusal of the judgment, it appears that the prosecution has failed to produce any reliable evidence in support of the prosecution case and, therefore, learned

Sessions Judge had granted an acquittal. The entire recovery of the counterfeit currency has been disbelieved by the learned judge and also that there were no independent or public witness in spite of the fact that the witnesses were available as shown in the site plan.

4. The applicant has claimed for quashing of the proceedings on the basis of principle of stare decise". In support of his submission, he has cited a decision of this Court, *Manoj v. State of U.P. and Anr.*, (49) 2004 ACC 302. Looking to the entire facts and Circumstances of the case, it is absolutely clear that there is no prospect of the case ending in conviction against the present applicant and if, the trial is allowed to continue, it will amount to wastage of valuable time of the court and will only be a hallow formality and the entire exercise will be rendered futile. Similar view was followed by Lucknow Bench of this Court in the case of *Gulab v. State of U.P.* where this Court had quashed the proceedings on the basis that if two persons are prosecuted separately under the same charge for the offences in the same transaction and on the basis of same evidence, and if. one of them is acquitted for whatsoever reason then the conviction against the other accused will create an anomalous position in law and is likely to shake the confidence of the people in the administration of justice. The Court has applied the principle of stare decise and quashed the proceedings.

5. In the circumstances, the present applicant, who was identical placed in the first information report registered at case crime No. 97 of 2001. arising out of the same incident dated 1.4.2001, is being tried separately whereas the Session Trial in respect of the two other accused has ended in a clear acquittal.

6. In the circumstances, this application is allowed and the proceedings of Session Trial No. 274-B of 2001. pending in the court of Additional Session Judge/ Fast Track Court No. 28, Etawah, State v. Vijai Sahagal, under sections 466, 473, 489-B, 489-C I.P.C., Police Station Bakewar. District Etawah is quashed.